BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of:	
Lifeline and Link Up Reform and Modernization	WC Docket No. 11-42
Telecommunications Carriers Eligible for Universal Service Support	WC Docket No. 09-197
Connect America Fund	WC Docket No. 10-90

PETITION OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION FOR TEMPORARY WAIVER

AROCLES AGUILAR
HELEN M. MICKIEWICZ
SINDY J. YUN

Attorneys for the California
Public Utilities Commission

505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-1999
Fax: (415) 703-4432

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I. INTRODUCTION

Pursuant to Section 1.3[1] of the Federal Communications Commission's (Commission) rules, the California Public Utilities Commission (CPUC or California) requests a temporary waiver of the revised federal Lifeline eligibility rules, §§ 54.400(f) and (j)[2] and 54.409,[3] and the federal Lifeline benefit portability rules, § 54.411. These rules are scheduled to go into effect on December 2, 2016.

The CPUC requests a temporary waiver to implement these rules and their supporting processes by October 31, 2017 because the California LifeLine Administrator (Administrator) and the California LifeLine providers need more time to make technical, administrative, and operational changes. They have informed the CPUC that they need 11 to 18 months to make these changes to their systems. California currently has the

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[1] *See* 47 C.F.R. § 1.3 – "The provisions of this chapter may be suspended, revoked, amended, or waived for good cause shown, in whole or in part, at any time by the Commission, subject to the provisions of the Administrative Procedure Act and the provisions of this chapter. Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown."

[2] *See* 47 C.F.R. § 54.4009(f) *Income.* "Income" means gross income as defined under section 61 of the Internal Revenue Code, 26 U.S.C. 61, for all members of the household. This means all income actually received by all members of the household from whatever source derived, unless specifically excluded by the Internal Revenue Code, Part III of Title 26, 26 U.S.C. 101 *et seq.;* (j) - *Qualifying assistance program.* A "qualifying assistance program" means any of the federal or Tribal assistance programs the participation in which, pursuant to §54.409(a) or (b), qualifies a consumer for Lifeline service, including Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance; Veterans and Survivors Pension Benefit; Bureau of Indian Affairs general assistance; Tribally administered Temporary Assistance for Needy Families (Tribal TANF); Head Start (only those households meeting its income qualifying standard); or the Food Distribution Program on Indian Reservations (FDPIR).

[3] *See* 47 C.F.R. § 54.409 - Consumer qualification for Lifeline.(a) To constitute a qualifying low-income consumer: (1) A consumer's household income as defined in §54.400(f) must be at or below 135% of the Federal Poverty Guidelines for a household of that size; or (2) The consumer, one or more of the consumer's dependents, or the consumer's household must receive benefits from one of the following federal assistance programs: Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance; or Veterans and Survivors Pension Benefit.

largest Lifeline subscriber base in the nation,[4] with over 2 million subscribers that receive federal and state subsidies. Because so many California Lifeline subscribers will be affected by the changes to the federal rules, the CPUC, the Administrator, and service providers must carefully plan, implement, and test the changes before rolling them out.

In addition, the CPUC must adopt state-specific benefit portability rules by January 15, 2017 in response to recently enacted state legislation. The CPUC is in the process of adopting these rules through its California LifeLine proceeding (CPUC Rulemaking 11-13-013). In this proceeding, the CPUC is also examining the impact of the *Lifeline Modernization Order*[5] to the California LifeLine Program. By December 2016, the CPUC will have adopted a policy framework that will enable the Administrator to start developing administrative, information technology, and electronic mechanisms and procedures.

A. Changes to Federal Lifeline Eligibility Criteria

In the *Lifeline Modernization Order*,[6] the Commission revised the federal eligibility criteria by eliminating the Low Income Home Energy Assistance Program (LIHEAP), the Temporary Assistance for Needy Families (TANF) and the National School Lunch Program (NSLP) from the list of qualifying assistance programs. The

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[4] *See* http://www.usac.org/about/tools/fcc/filings/2016/Q4/LI08%20Lifeline%20Subscribers%20by%20State%20or%20Jurisdiction%20-%20January%202016%20through%20June%202016.xlsx

[5] *See Lifeline Link Up Reform and Modernization et al.,* WC Docket 11-42 et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962 (2016) (*Lifeline Modernization Order*).

[6] *Id*.

Commission also added to the list, the Veterans and Survivors Pension Benefits Program, which was not previously on the list.

In addition, the Commission determined that states may no longer use state-specific eligibility criteria, such as an income threshold of 150% below the federal poverty guideline, to enroll consumers in federal Lifeline. The Commission held that these program eligibility changes would allow for more efficient administration of the program and curb waste, fraud and abuse.

To implement the federal eligibility changes and any requisite modification to our rules, the Administrator will need to revise the California LifeLine inbound and outbound mail processes, redesign application and renewal forms, update customer tracking system, change web and phone enrollment systems, revise training manuals and update websites. The Administrator will also need to revise its direct application process, change carrier information exchange process, modify the interactive voice response system, and perform user acceptance testing. The California LifeLine providers will also need to make IT and other operational changes on their end and align their process with the Administrator's.

Because the *Lifeline Modernization Order* has eliminated state-specific criteria, the CPUC must re-examine its eligibility rules and enrollment process. The CPUC uses one enrollment process for both federal and state LifeLine. This was done to allow consumers to avoid submitting two separate forms and undergo two separate enrollments, duplicate checks, and identity checks, in order to receive both federal and state subsidies. Since the *Lifeline Modernization Order* no longer allows states to use their own state-specific criteria to qualify consumers for federal Lifeline, the CPUC must now determine whether to align its state criteria with the federal criteria or to create a separate process for each program. These are difficult issues facing the California LifeLine Program at this time and they require time and effort to resolve consistent with our rules for approval by the full California Commission. The CPUC requests extra time from the Commission to resolve these implementation issues and to develop the complementary technical adjustments to make implementation efficient for providers, our Administrator, and subscribes alike.

B. New Benefit Portability Rules

In the *Lifeline Modernization Order*, the Commission adopted new benefit portability rules, 47 C.F.R. § 54.411[7], to "further incentivize investment in high-quality Lifeline service offerings… that will give providers greater certainty when planning new

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[7] *See* 47 C.F.R. § 54.411 - Lifeline benefit portability - (a) A provider shall not seek or receive reimbursement through the Lifeline program for service provided to a subscriber who has used the Lifeline benefit to enroll in a qualifying Lifeline-supported broadband Internet access service offering with another Lifeline provider within the previous 12 months. (b) A provider shall not seek or receive reimbursement through the Lifeline program for service provided to a subscriber who has used the Lifeline benefit to enroll in a qualifying Lifeline-supported voice telephony service offering with another Lifeline provider within the previous 60 days. (c) Notwithstanding paragraphs (a) and (b) of this section, a provider may seek and receive reimbursement through the Lifeline program for service provided to a subscriber prior to the completion of the 12-month period described in paragraph (a) of this section or the 60-day period described in paragraph (b) of this section if: (1) The subscriber moves their residential address; (2) The subscriber's current provider ceases operations or otherwise fails to provide service;(3) The provider has imposed late fees for non-payment greater than or equal to the monthly end-user charge for the supported service; or (4) The subscriber's current provider is found to be in violation of the Commission's rules during the 12-month period and the subscriber is impacted by such violation. (d) If a subscriber transfers his or her Lifeline benefit pursuant to paragraph (c) of this section, the subscriber's Lifeline benefit will apply to the newly selected service until the end of the original 12-month period. In these circumstances, the subscriber is not required to re-certify eligibility until the end of the original 12-month period. The subscriber's original provider must provide the subscriber's eligibility records to either the subscriber's new provider or the subscriber to comply with the 12-month service period.

or updated Lifeline offerings."[8] These rules require federal Lifeline subscribers to remain with the same eligible telecommunications carrier (ETC) for a set period of time (60 days for voice telephony service and 12 months for broadband internet access service) before they can switch to another ETC, unless they qualify for an exception.

Implementing these rules will also require significant changes to the Administrator's enrollment process and the California LifeLine database. The California LifeLine Program's inbound and outbound mailing processes, forms and letters, customer service capabilities, customer tracking system, enrollment methods, data exchange processes, and websites will need to be modified. The California LifeLine Program's identity check and matching logic process will also need to be changed, as well as process documents and training manuals.

In addition, the California Legislature recently passed a new law, Assembly Bill 2570, codified in California Public Utilities Code § 878.5[9], which requires the CPUC to adopt state-specific portability rules by January 15, 2017. The CPUC is in the process of adopting these rules through its California LifeLine Rulemaking proceeding.

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[8] *See Lifeline Modernization Order*, para. 385.

[9] *See* CA Pub. Util. Code § 878.5 -"The commission [CPUC] shall adopt a portability freeze rule for the lifeline program by January 15, 2017. The commission shall consider including all of the following in the rule: a) A 60-day duration of the portability freeze. b) A period of time when a subscriber would be able to terminate lifeline service without penalty, similar to provisions established in Section 4.13.5 of commission Decision 14-01-036 (January 16, 2014), Decision Adopting Revisions to Modernize and Expand the California LifeLine Program. c) A requirement that the administrator of the lifeline program provide a telephone corporation providing lifeline service with real-time information concerning whether a subscriber has enrolled with another telephone corporation during the period of the portability freeze adopted by the commission pursuant to this section and, if the subscriber enrolled during this period, the date of enrollment."

Implementing the new federal Lifeline benefit portability rules will also be challenging because the California LifeLine Program does not subsidize broadband service at this time. The CPUC needs to determine how best to implement the federal benefit portability rules that meets the needs of California consumers, is consistent with state and federal law, and harmonizes both programs. The CPUC is in the process of exploring the possibility of leveraging the National Lifeline Accountability Database with the Universal Service Administrative Company which we hope will aid us in resolving these issues and implementing the benefit portability rules. These prudent state-federal synergies require time to work out.

II. CONCLUSION

For the foregoing reasons, the CPUC requests permission to implement the revised federal eligibility and benefit portability rules by October 31, 2017. The CPUC also requests approval to continue to enroll consumers in the federal Lifeline program under the CPUC's existing rules and process and allow consumers to receive federal support during this time.

Respectfully submitted,

AROCLES AGUILAR
HELEN M. MICKIEWICZ
SINDY J. YUN

By: /s/ SINDY J. YUN

SINDY J. YUN

Attorneys for the California
Public Utilities Commission

505 Van Ness Avenue
San Francisco, CA 94102
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Fax: (415) 703-4432

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